

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAMON LAVELLE WILBERT,

Defendant.

Case Number: 17-20750

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

On November 8, 2017, Defendant Wilbert was indicted by a grand jury of one count of possession with intent to distribute cocaine. ECF No. 11. He pled guilty and on March 30, 2018 he was sentenced to 120 months incarceration and eight years of supervised release. ECF No. 26.

Defendant filed a pro se motion seeking appointment of counsel to represent him in obtaining compassionate release due to the spread of COVID-19. ECF No. 27. Due to mailing delays caused by COVID-19, the motion was docketed on June 23, 2020, but in accordance with 20-AO-26, the postmark date of June 5, 2020 was used for the filing date.

The Sixth Amendment secures to a defendant who faces incarceration the right to counsel at all “critical stages” of the criminal process. *United States v. Wade*, 388 U.S. 218, 224 (1967). The Supreme Court has held that prisoners’ post-conviction right to counsel extends only to the first appeal of right and no further. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). The decision to appoint counsel is within the discretion of the court, and the appointment of counsel is only required where the interests of justice or due process so require. *Mira v. Marshall*, 806 F.2d 636, 638 (6th Cir. 1986). Appointment of counsel is therefore required only if, given the difficulty of the case and petitioner’s ability, the petitioner could not obtain justice without an attorney, he could

not obtain a lawyer on his own, and he would have a reasonable chance of winning with the assistance of counsel. *See Thirkield v. Pitcher*, 199 F. Supp. 2d 637, 653 (E.D. Mich. 2002).

Defendant has not satisfied the high burden of demonstrating that appointment of counsel is warranted. Seeking compassionate relief does not involve complex facts or legal doctrines that would prevent Defendant from effectively bringing his claim on his own behalf.

Accordingly, it is **ORDERED** that Wilbert's motion for appointment of counsel, ECF No. 27, is **DENIED**.

Dated: July 7, 2020

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to Damon Wilbert #16814-039, Federal Correctional Institution, PO Box 1000, Milan, MI 48160 by first class U.S. mail on July 7, 2020.

s/Kelly Winslow
KELLY WINSLOW, Case Manager